

This is Wiley F. Smith and Carolyn Smith request for production of documents to R. Lee Leininger, Daria J. Zane, Paul F. Holleman, William Ferry, Attorneys for the United States Department of Justice Adjudication Team. Suite 330, 380 Park Center Blvd., Boise, Idaho 83706

Claimants in the above captioned consolidated SRBA subcases. These discovery requests are submitted pursuant to Rules 26, 33, 34, and 36 of the Idaho Rules of Civil Procedure. Each interrogatory and or request is to be answered separately and fully in writing, under oath, within 15 days of service in accordance with the Idaho Rules of Civil Procedure. The answers and production of documents pursuant to these discovery requests should be served upon and received by Wiley F. Smith/ Carolyn Smith, objectors, 5872 Hwy 93, Mackay, Idaho 83251.

INSTRUCTIONS

1. In responding to these interrogatories, and requests for production of documents, We are requesting that you must furnish all information available to you, including but not limited to information in the possession or control of your Agency, attorneys, experts, consultants, advisors, agents, associates, or any other person or persons or entity over which you have control.
2. If there is any interrogatory, or request for production of documents to which you object in whole or in part, or as to which you claim a privilege in whole or in part, or as to which you claim protection from discovery in whole or in part, state the nature and basis of your objection or claim of protection from discovery, describe in detail the facts upon which you base your objection, and answer any remaining part to which you do not object, do not claim a privilege, or do not claim protection from discovery.
3. If there is any interrogatory, request for production of documents which you cannot answer in its entirety or for which you cannot provide the exact information requested:
 - a. Answer any part as to which you have or can obtain the information requested, and provide the information requested to the extent that you know or can obtain such information.
 - b. State your best estimate of all information requested which you do not know and cannot obtain, including but not limited to, any names or dates for which you lack exact information.
 - c. Identify each document, person or communication upon which your estimate is based.
4. If any portion of any document is responsive to any document request, you must produce the entire document. You must produce all documents in the order in which they appear in your files, and must not shuffle or otherwise rearrange the documents produced. Documents that in their original condition were stapled, clipped or otherwise fastened together must be provided in such form.

DEFINITIONS

1. "Document" is used in its broadest sense and means any item that is subject to a request for production of documents pursuant to Idaho R. Civ. P. 34.
2. "Identify" when used with respect to a document, requests the following information:
 - a. The title of the document.
 - b. A summary of the contents of the document.

- c. The date of the document.
- d. The identity of the person or persons who wrote, contributed to, prepared or originated such document.
- e. The identity of the person or persons to whom the document was directed or who received or reviewed the document or copies of the document or any portion thereof.
- f. The present or last-known address and custodian of the document and the address and phone number of each such custodian.

INTERROGATORIES, REQUESTS FOR ADMISSIONS AND REQUESTS FOR PRODUCTION

INTERROGATORY NO. 1: As to each water right in the above referenced subcases, identify and explain on what basis and for what reasons does the United States claim an 1884 priority date.

- a. State all facts used to claim a priority date of 01-01-1884 on the above captioned SRBA subcases.
- b. State why most of the Bureau of Land Management Stockwater Claims in Basin 34 have the same 01-01-1884 Priority Date and how they differ from U.S. Forest Service Stockwater Claims in Basin 34 which claim various Priority Dates on different streams and springs that vary from 1876 to 1960.

INTERROGATORY NO. 2: As to each water right in the above referenced subcases that you deem that the United States should be decreed a water right on land that was not administered by a state prior to 1890 nor by the Federal Government prior to the origination of the Taylor Grazing Act therefore creating the Bureau of Land Management in 1934.

- a. State the bases for your contention including each fact upon which you rely.

INTERROGATORY NO. 3: As to each water right in the above referenced subcases that the United States seeks a 01-01-1884 water right, Do you not contend that the United States attempts to control the use of water from these sources therefore to supercede the water rights of Wiley F. And Carolyn Smith that have been established with the State of Idaho Department of Water Resources.

- a. Identify each water right that you contend will be affected should the United States be denied a senior water right, but receives a "No Call" clause on decree 34-00834, 34-00835, 34-00839, protecting the United States claim with a 06-02-1900 Priority.
- b. State the bases for your contention, including each fact upon which you rely:

INTERROGATORY NO. 4: When do you contend that individuals, other than native Americans, first settled in the Thousand Springs Valley Area?

- a. State the land description by Range, Township, Section that you contend encompasses the Thousand Springs Valley Area.
- b. State the land description by Range, Township, Section that you contend the individuals settled on.
- c. State the bases for your contention, including each fact upon which you rely:

INTERROGATORY NO. 5: Who do you contend were the first permanent settlers, other than native Americans, in the Thousand Springs Valley Area.

- a. Identify the names of such individuals, the location of their settlement, the names of any lineal descendants, the date upon which they settled.
- b. State the bases for your contention, including each fact upon which you rely.

INTERROGATORY NO. 6: As to the individuals identified in response to interrogatory No. 5,

- a. Do you contend that the first settlers, other than Native Americans in the Thousand Springs Valley Area possessed or owned livestock .
- b. State the bases for your contention including each fact upon which you rely:

INTERROGATORY NO. 7: If your answer to interrogatory No. 5 is affirmative, identify, by individual and/or family, the kinds of livestock, e.g. cattle , sheep, and estimate the number of livestock.

- a. State the bases for your contention including each fact upon which you rely:

INTERROGATORY NO. 8: Of the livestock identified in response to interrogatory No. 5, did the livestock graze at or near the claimed water sources in the above referenced subcases.

- a. State the bases for your contention including each fact upon which you rely.

INTERROGATORY NO. 9: Do you contend that other entities, businesses or individuals, besides permanent settlers, owned or controlled livestock grazing at or near the claimed water sources in the above referenced subcases prior to 1900?

- a. Identify the entities, businesses or individuals, and the date upon which their livestock grazed at or near the claimed water sources in the above referenced subcases:
- b. State the bases for your contention, including each fact upon which you rely:

INTERROGATORY NO. 10: Do you contend that there were ever trail drives in or through the area of Thousand Springs Valley with herds of livestock not belonging to permanent settlers?

- a. Identify the entities, businesses or individuals, and the dates in which the trail drives occurred;
- b. State the bases for your contention, including each fact upon which you rely:

INTERROGATORY NO. 11. Identify each and every person who was consulted or contributed to responses to these discovery requests

- a. As to each person identified, state the nature of their role in responding to these discovery requests and the specific discovery request to which they contributed.

INTERROGATORY NO. 12. Please identify each person whom you expect to call as an expert witness, whether during your direct or rebuttal case relating to the above referenced subcases. As to each person identified,

- a. Provide a summary of their qualifications;
- b. State the subject matter on which the expert is expected to testify; and

- c. State the substance of the facts and opinions to which the expert or experts are expected to testify.

INTERROGATORY NO. 13. Please identify all witnesses not identified in response to the above listed interrogatories that you expect to have testify at any hearings relating to these subcases.

INTERROGATORY NO. 14. Please identify each person with information or knowledge concerning the claims of the United States in the above referenced subcases and the claims of the United States in Basin 34. For each person identified,

- a. State the facts or other information known to the person; and
- b. Identify all documents relating to that person's knowledge.

REQUESTS FOR ADMISSIONS

1. As to each water right in the above-referenced subcases, admit that there is no purpose for the United States Governments priority date to supersede that of Wiley and Carolyn Smith other than to establish control of the water source.
2. Admit that the water used by the individuals who graze on the public lands will not be adversely affected should the United States be granted a 06-02-1900 water right and perpetual "No Call" clause, Water Right 34-00834, 34-00835, 34-00839 can never make a call on the instream stockwater beneficial use.
3. Admit that there were no permanent settlers in the Thousand Springs Valley Area prior to 1884.
4. Admit that no individual other than native Americans, grazed livestock at or near the water sources claimed in the aboved referenced subcases prior to 1884.
5. Admit that trail drives occurred in or through the area of Thousand Springs Valley after 1884.
6. Admit that no individual nor entity nor the United States has a documented water right on the above-referenced subcases other than 34-00834, 34-00835, 34-00839.

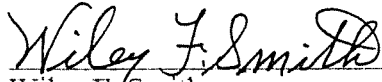
REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST FOR PRODUCTION NO. 1. Please produce each document identified in your responses to the foregoing interrogatories.

REQUEST FOR PRODUCTION NO. 2. Produce all exhibits you propose to use in your direct and / or rebuttal cases.

REQUEST FOR PRODUCTION NO. 3. Produce any and all documents used in any way to support the Bureau of Land Managements 01/01/1884 Priority Date Claim on the above referenced subcases.

REQUEST FOR PRODUCTION NO. 4. Produce any and all documents reviewed, relied upon or referred to in responding to these discovery requests.



Wiley F. Smith

Carolyn Smith Objectors

5872 Hwy 93

Mackay, Idaho 83251

Dated this 25th day of July, 1996.

CERTIFICATE OF MAILING

I hereby certify that on the 25th day of July 1996,
I mailed a copy of this request for Discovery in Subcases 34-13335A, 34-13336A, 34-13353,
34-13354, to R. Lee Leininger,

William F. Ferry,

Daria J. Zane,

Paul F. Holleman,

United States Department of Justice

Environment and Natural Resources Division

550 West Fort St. Box 33

Boise, Idaho 83724

Chief, Natural Resources Division

Office of the Attorney General

State of Idaho

P.O. Box 44449

Boise, Idaho 83711-4449

Signed

Wiley F. Smith 7-25-96

Wiley F. Smith

Date

Star Route

Mackay, Idaho 83251